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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 ANTHONY STEWART COSTA,
12 Plaintiff,
13 v.
14 MARGARITA SANDOVAL,
15 Defendant.
16

Case No. 1:21-cv-1308 JLT GSA (PC)

ORDER ADOPTING THE FINDINGS AND
RECOMMENDATIONS, DISMISSING THE
ACTION WITHOUT PREJUDICE, AND
DIRECTING THE CLERK OF COURT TO
CLOSE THE CASE

(Doc. 17)

17 Anthony Stewart Costa seeks to hold the defendant liable for a violation of his civil rights
18 while incarcerated at the California Correctional Institution in Tehachapi, California. (*See*
19 *generally* Doc. 1.) The magistrate judge found Plaintiff failed to obey the Court's orders to apply
20 to proceed *in forma pauperis* following his release from custody and failed to keep the Court
21 informed of his current mailing address.¹ (*See* Doc. 17 at 1-2; *see also* Docs. 15, 16.) The
22 magistrate judge found terminating sanctions are appropriate, after considering the factors
23 identified by the Ninth Circuit in *Malone v. United States Postal Service*, 833 F.2d 128, 130 (9th
24 Cir. 1987). (*Id.* at 3-5.) The magistrate judge recommended that the Court dismiss the action
25 without prejudice. (*Id.* at 4.)

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27 ¹ The Court issued an order for Plaintiff to show cause why the action should not be dismissed for his
28 failure to comply with the order to file an application to proceed *in forma pauperis*. (Doc. 16.) The U.S.
Postal Service returned the Court's mail as "Undeliverable, Not Deliverable as Addressed, Unable to
Forward" on March 20, 2025.

1 The Court served the Findings and Recommendations on Plaintiff at the address on record
2 and notified him that any objections were due within 14 days. (Doc. 17 at 5.) However, the U.S.
3 Postal Service again returned the Court's mail on May 12, 2025, marked "Undeliverable, Return
4 to Sender, Unknown at this Address, Not Deliverable as Addressed, Unable to Forward." To
5 date, Plaintiff has not filed the application to proceed IFP as ordered or provided the Court with
6 his proper mailing address.

7 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case.
8 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations
9 are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 10 1. The Findings and Recommendations issued April 29, 2025 (Doc. 17) are
11 **ADOPTED** in full.
- 12 2. This matter is **DISMISSED** without prejudice for failure to prosecute and for
13 failure to obey the Court's orders.
- 14 3. The Clerk of Court is directed to close this case.

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16 IT IS SO ORDERED.

17 Dated: May 22, 2025


UNITED STATES DISTRICT JUDGE